

Signed at Bucharest September 6, 2006

**PROTOCOL
TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KOREA
AND THE GOVERNMENT OF ROMANIA
ON THE MUTUAL PROMOTION AND PROTECTION OF INVESTMENTS**

The Government of the Republic of Korea and the Government of Romania (hereinafter referred to as the "Contracting Parties"),

Having in mind the necessity to amend the Agreement between the Government of the Republic of Korea and the Government of Romania on the Mutual Promotion and Protection of Investments, signed at Bucharest, on August 7, 1990 (hereinafter referred to as "the Agreement") in the light of the obligations of the Government of Romania as a future Member State of the European Union;

Have agreed to amend the Agreement as follows:

Section I

Paragraph (4) of Article 3 of the Agreement shall be replaced with the following:

"(4) The provisions of paragraphs (1) to (3) of this Article, relating to the grant of the above mentioned treatment, shall not apply to all actual or future advantages accorded by either Contracting Party by virtue of its membership to, or association with, a customs, economic or monetary union, such as the European Union, a common market or a free trade area, to investors of its own, or, of Member States of such union, common market or free trade area. Nor shall these provisions be construed so as to oblige one Contracting Party to accord the other Contracting Party all actual or future advantages accorded to investors of a third State by virtue of any international agreement or arrangement relating wholly or mainly to taxation."

Section II

Article 6 of this Agreement shall be amended by adding new paragraphs (5) and (6) as follows:

"(5) Notwithstanding paragraphs (1) to (4) above, a Contracting Party may adopt or maintain measures relating to cross-border capital transaction:

- a) in the event of serious balance of payments and external financial difficulties or threats thereof;
- b) in case where, in exceptional circumstances, movements of capital cause or threaten serious difficulties for macro-economical management, in particular, monetary and exchange rate policies; and
- c) through the equitable, non-discriminatory and good faith application of its laws relating to:

- (i) bankruptcy, insolvency or the protection of the rights of creditor;
 - (ii) issuing, trading or dealing in securities;
 - (iii) criminal or penal offences; or
 - (iv) ensuring the satisfaction of judgments in adjudicatory proceedings;
- d) for the implementation of its essential foreign and security policy on grounds of necessity and urgency.
- (6) Measures referred to in paragraph (5) of this article:
- a) shall not exceed those necessary to deal with the circumstances set out in paragraph (5) of this article;
 - b) shall be temporary and eliminated as soon as conditions permit;
 - c) shall be promptly notified to the other Contracting Party; and
 - d) shall be consistent with the Articles of Agreement of the International Monetary Fund inasmuch as the Contracting Party taking the measures is a party to the Articles of Agreement of the International Monetary Fund.“

Section III

Article 12 of this Agreement shall be amended by adding a new paragraph (4) as follows:

“(4) In case of future evolutions of the European Community Law that may take place after Romania’s accession to the European Union, the present Agreement shall be amended, if necessary, by mutual consent of the Contracting Parties, so as to ensure the conformity of its provisions with the obligations of the Government of Romania arising from its membership to the European Union member status.“

Section IV

This Protocol shall form an integral part of the Agreement.

This Protocol shall enter into force on the date of receipt of the last notification by which the Contracting Parties inform each other of the completion of the procedures required by its laws for its entry into force and shall remain in force so long as the Agreement remains in force.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their Governments, have signed this Protocol.

Done at Bucharest on September 6, 2006, in duplicate, each in the Korean, Romanian and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

FOR THE GOVERNMENT OF
ROMANIA